

HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION,  
  
Plaintiff,  
  
vs.  
  
MOTOROLA, INC., et al.,  
  
Defendants.

Case No. C10-1823-JLR

**MICROSOFT'S TIMELINE OF  
SELECT EVENTS**

MOTOROLA MOBILITY LLC, et al.,  
  
Plaintiffs,  
  
vs.  
  
MICROSOFT CORPORATION,  
  
Defendants.

Pursuant to the Court's request at the July 31, 2013 Hearing, Microsoft submits the  
below timeline.

**Timeline**

Apr. 11, 2003	Microsoft and Motorola execute original ActiveSync license.
Aug. 1 and 5, 2003	InteCap performs valuation (8/1/2003) and delivers presentation (8/5/2003) to Motorola providing a royalty assessment for Motorola's 802.11 standard essential patents.
Nov. 7 and 17, 2003	MPEG LA issues press release (11/17/2003) announcing royalty rates for its H.264 patent pool. Motorola agrees to the terms of the press release

	(11/7/2003).
May 2004	Motorola and Via Licensing engage in communications regarding Motorola's potential participation in Via Licensing's 802.11 patent pool.
May and Oct. 2005	Via Licensing communicates with Motorola regarding the licensing terms for Via Licensing's 802.11 patent pool.
Sept. 2007-2009	Motorola's license to Microsoft's ActiveSync patents expires. Motorola and Microsoft are unable to agree on terms for a renewal or a new license.
Oct. 2009-2010	Motorola begins releasing products that incorporate the Android operating system and Microsoft's ActiveSync technology. Microsoft communicates to Motorola that Motorola requires a license to Microsoft's ActiveSync technology for its new Android-based products but the parties remain unable to agree on terms for a license.
Oct. 1, 2010	Microsoft files patent infringement suit against Motorola in the ITC ( <i>Certain Mobile Devices, Associated Software, and Components Thereof</i> , Investigation No. 337-TA-744) ("ITC 744 Action"), alleging infringement by Motorola's Android smartphones. Microsoft alleged infringement of certain Microsoft patents related to its ActiveSync technology, as well as other patents. Microsoft sought an exclusion order.
Oct. 1, 2010	Microsoft files patent infringement suit against Motorola in W.D. Washington ( <i>Microsoft Corp. v. Motorola, Inc.</i> , Case No. 2:10-cv-1577-RSM) ("1577 Action"), alleging infringement by Motorola's Android smartphones. The patents at issue are the same as in the ITC 744 action.
Oct. 21, 2010	<p>Motorola sends Microsoft a letter attaching a list of Motorola's patents essential to the 802.11 standard ("Motorola's 802.11 SEPs"), and stating:</p> <p>Motorola offers to license the patents under reasonable and non-discriminatory terms and conditions ("RAND"), including a reasonable royalty of 2.25% per unit for each 802.11 complaint product, subject to a grant back license under the 802.11 essential patents of Microsoft. As per Motorola's standard terms, the royalty is calculated based on the price of the end product (e.g., each Xbox 360 product) and not on component software (e.g., Windows Mobile software).</p> <p>The letter further states:</p> <p>Motorola will leave this offer open for 20 days. Please confirm whether Microsoft accepts the offer.</p>
Oct. 22, 2010	<p>Microsoft receives Motorola's October 21, 2010 letter.</p> <p>A meeting takes place between general counsels and licensing executives from both companies.</p>
Oct. 29, 2010	<p>Motorola sends Microsoft a letter attaching a list of Motorola's patents essential to the H.264 standard ("Motorola's H.264 SEPs"), and stating:</p> <p>Motorola offers to license the patents on a non-discriminatory basis on</p>

1		reasonable terms and conditions (“RAND”), including a reasonable royalty of 2.25% per unit for each H.264 compliant product, subject to a grant back license under the H.264 patents of Microsoft .... As per Motorola’s standard terms, the royalty is calculated based on the price of the end product (e.g., each Xbox 360 product, each PC/laptop, each smartphone, etc.) and not on component software (e.g., Xbox 360 software, Windows 7 software, Windows Phone 7 software, etc.).
2		
3		
4		
5		The letter further states:
6		Motorola will leave this offer open for 20 days. Please confirm whether Microsoft accepts the offer.
7	Nov. 9, 2010	Microsoft files complaint in this case alleging, among other things, breach of contract. <i>Microsoft Corp. v. Motorola, Inc.</i> , Case No. C10-1823-JLR (“1823 Action”).
8		
9	Nov. 10, 2010	Motorola files two patent infringement suits ( <i>Motorola Mobility, Inc. and General Instrument Corp. v. Microsoft Corp.</i> , Case No. 3:10-cv-699 (“699 Action”) and <i>Motorola Mobility, Inc. and General Instrument Corp. v. Microsoft Corp.</i> , Case No. 3:10-cv-700 (“700 Action”)) against Microsoft in W.D. Wisconsin, alleging infringement of certain Motorola 802.11 and H.264 SEPs.
10		
11		
12	Nov. 22, 2010	Motorola files a patent infringement suit against Microsoft in the ITC ( <i>In the Matter of Certain Gaming and Entertainment Consoles, Related Software, and Components Thereof</i> , Investigation No. 337-TA-752) (“ITC 752 Action”). The patents at issue were the same as those that were ultimately at issue in the 700 Action. Motorola sought an exclusion order.
13		
14		
15	Jan. 4, 2011	Motorola, Inc. changes its name to Motorola Solutions, Inc., and Motorola Mobility, Inc. is spun off from Motorola, Inc.
16	Feb. 23, 2011	Microsoft files amended complaint in this case, alleging that Motorola’s pursuit of injunctive relief on SEPs is improper and a breach of contract.
17	June 1, 2011	The Court denies Motorola’s motion to dismiss, finding that Microsoft’s breach of contract claim is actionable and ripe. (Dkt. 66.)
18	July 6-7, 2011	Motorola files four patent infringement suits against Microsoft in Germany, alleging infringement of Motorola H.264 SEPs. Motorola sought injunctive relief. <i>General Instrument Corp. v. Microsoft Deutschland GmbH</i> , Case No. 2 O 240/11; <i>General Instrument Corp. v. Microsoft Deutschland GmbH</i> , Case No. 2 O 373/11; <i>General Instrument Corp. v. Microsoft Corp. and Microsoft Ireland Operations Ltd.</i> , Case No. 2 O 376/11; <i>General Instrument Corp. v. Microsoft Ireland Operations Ltd.</i> , Case No. 2 O 387/11.
19		
20		
21		
22	July 18, 2011	Marvell, the supplier of 802.11 chips for Microsoft’s Xbox products, seeks a RAND license to Motorola’s 802.11 standard essential patents.
23		
24	Sept. 30, 2011	Microsoft confirms that “Microsoft is seeking, and remains ready and willing to take, a license to Motorola’s H.264 and 802.11 declared-essential patents on RAND terms.” (Dkt. No. 96.)
25	Nov. 25, 2011	Motorola sends Marvell a license proposal that seeks 2.25% of the price of

1		the end product into which Marvell's 802.11 chips are incorporated. Marvell's license proposal excludes from the scope of coverage any chips that Marvell would provision to Microsoft and two other companies with whom Motorola was engaged in legal disputes.
2		
3	Dec. 23, 2011	Microsoft submits an Orange Book offer for Motorola's H.264 standard essential patents at issue in Germany of EUR Cents 2.0 per unit for up to 10 million units and EUR Cents 1.0 per unit thereafter. Microsoft soon thereafter submitted proof of deposit of all back royalties that would be due to Motorola under this Orange Book offer.
4		
5		
6	Feb. 7, 2012	Hearing takes place in Germany where the German court announces an April 17, 2012 ruling date on Motorola's request for injunctive relief.
7	Feb. 27, 2012	This Court rules on Microsoft's motion for partial summary judgment, finding that Motorola entered into binding contracts with the IEEE and ITU, and that Microsoft is a third-party beneficiary to those contracts. (Dkt. 188)
8		
9	Mar. 14, 2012	Microsoft asks Motorola to defer pursuit of injunctions in Germany in exchange for a \$300 million bond.
10	Mar. 19, 2012	Motorola declines Microsoft's offer to defer pursuit of injunctions in Germany in exchange for \$300 million bond.
11	Mar. 28, 2012	Microsoft files for temporary restraining order in the 1823 Action to bar Motorola from enforcing an injunction in Germany. (Dkt. 210.)
12	April 12, 2012	This Court issues a temporary restraining order, precluding Motorola from enforcing an injunction against Microsoft in Germany. (Dkt. 261.)
13	April 25, 2012	An Initial Determination by an Administrative Law Judge is issued in the ITC 752 Action, finding that certain Motorola H.264 and 802.11 SEPs were valid and infringed by Microsoft.
14		
15	May 2, 2012	The Mannheim District Court in Germany issues two judgments finding that Microsoft infringed Motorola H.264 SEPs and orders Microsoft to cease and desist from offering, marketing, using, importing or possessing for said purposes the Xbox 360 in Germany.
16		
17	May 7, 2012	Microsoft informs this Court that it has been forced to move its German distribution center to the Netherlands due to Motorola's pursuit of injunctive relief.
18		
19	May 14, 2012	This Court converts the temporary restraining order into a preliminary injunction precluding Motorola from enforcing an injunction against Microsoft in Germany. (Dkt. 318.)
20	May 22, 2012	Motorola Mobility is acquired by Google Inc.
21	June 1, 2012	Microsoft's EMEA distribution facility goes "live" in the Netherlands
22	June 6, 2012	Court denies Motorola's motion for summary judgment that Microsoft repudiated Motorola's RAND commitments. (Dkt. 335.)
23	June 2012	Motorola is under regulatory scrutiny by the FTC.
24	Sept. 28, 2012	The Ninth Circuit affirms this Court's preliminary injunction order.
25	Oct. 10, 2012	This Court denies Motorola's motion for partial summary judgment dismissing Microsoft's claim that the court create a license agreement for Motorola's standard essential patents. (Dkt. 465.)
	Oct. 24, 2012	In the ITC 752 Action, Motorola moves to terminate its patents at issue that are essential to the 802.11 standard.

1	Nov. 13-20, 2012	A 6-day trial is held before this Court regarding the appropriate RAND rate for Motorola's 802.11 and H.264 SEP portfolios.
2	Nov. 30, 2012	This Court grants Microsoft's motion for summary judgment, dismissing Motorola's claims for injunctive relief. (Dkt. 607.)
3	Jan. 3, 2013	The FTC and Motorola enter a consent order regarding Motorola's practices regarding licensing and enforcement of Motorola's SEPs.
4	Jan. 8, 2013	Motorola moves to terminate the ITC 752 Action with respect to the Motorola H.264 SEPs that were still at issue.
5	Feb. 4, 2013	Motorola submits compliance report regarding the consent order it entered with the FTC.
6	April 19, 2013	This Court issues its Findings of Fact and Conclusions of Law from the November 2012 trial. (Dkt. 673.)
7	May 6, 2013	European Commission states that Motorola's pursuit of injunctions against willing licensees is improper.
8		

9 DATED this 16th day of August, 2013.

10  
11 **RESPECTFULLY SUBMITTED,**  
12 **CALFO HARRIGAN LEYH & EAKES LLP**

13 By s/Arthur W. Harrigan, Jr.  
14 Arthur W. Harrigan, Jr., WSBA #1751

15 By s/Christopher Wion  
16 Christopher Wion, WSBA #33207

17 By s/Shane P. Cramer  
18 Shane P. Cramer, WSBA #35099  
19 999 Third Avenue, Suite 4400  
20 Seattle, WA 98104  
21 Phone: 206-623-1700  
22 arthurh@calfoharrigan.com  
23 chrisw@calfoharrigan.com  
24 shanec@calfoharrigan.com

25 By s/T. Andrew Culbert  
T. Andrew Culbert

By s/David E. Killough  
David E. Killough

**MICROSOFT CORPORATION**  
1 Microsoft Way  
Redmond, WA 98052

Phone: 425-882-8080  
Fax: 425-869-1327

David T. Pritikin  
Richard A. Cederoth  
Constantine L. Trela, Jr.  
William H. Baumgartner, Jr.  
Ellen S. Robbins  
Douglas I. Lewis  
David C. Giardina  
John W. McBride  
Nathaniel C. Love

SIDLEY AUSTIN LLP  
One South Dearborn  
Chicago, IL 60603  
Phone: 312-853-7000  
Fax: 312-853-7036

Carter G. Phillips  
Brian R. Nester

SIDLEY AUSTIN LLP  
1501 K Street NW  
Washington, DC 20005  
Telephone: 202-736-8000  
Fax: 202-736-8711

Counsel for Microsoft Corp.

**CERTIFICATE OF SERVICE**

I, Florine Fujita, swear under penalty of perjury under the laws of the State of Washington to the following:

1. I am over the age of 21 and not a party to this action.
2. On this 16th day of August, 2013, I caused the preceding document to be served on counsel of record in the following manner:

**Attorneys for Motorola Solutions, Inc., and Motorola Mobility, Inc.:**

Ralph Palumbo, WSBA #04751  
Philip S. McCune, WSBA #21081  
Summit Law Group  
315 Fifth Ave. South, Suite 1000  
Seattle, WA 98104-2682  
Telephone: 206-676-7000  
Email: [Summit1823@summitlaw.com](mailto:Summit1823@summitlaw.com)

\_\_\_\_\_ Messenger  
\_\_\_\_\_ US Mail  
\_\_\_\_\_ Facsimile  
  X   ECF

Steven Pepe (*pro hac vice*)  
Jesse J. Jenner (*pro hac vice*)  
Ropes & Gray LLP  
1211 Avenue of the Americas  
New York, NY 10036-8704  
Telephone: (212) 596-9046  
Email: [steven.pepe@ropesgray.com](mailto:steven.pepe@ropesgray.com)  
Email: [jesse.jenner@ropesgray.com](mailto:jesse.jenner@ropesgray.com)

\_\_\_\_\_ Messenger  
\_\_\_\_\_ US Mail  
\_\_\_\_\_ Facsimile  
  X   ECF

Norman H. Beamer (*pro hac vice*)  
Ropes & Gray LLP  
1900 University Avenue, 6<sup>th</sup> Floor  
East Palo Alto, CA 94303-2284  
Telephone: (650) 617-4030  
Email: [norman.beamer@ropesgray.com](mailto:norman.beamer@ropesgray.com)

\_\_\_\_\_ Messenger  
\_\_\_\_\_ US Mail  
\_\_\_\_\_ Facsimile  
  X   ECF



1 Paul M. Schoenhard (*pro hac vice*)

2 Ropes & Gray LLP

3 One Metro Center

4 700 12<sup>th</sup> Street NW, Suite 900

5 Washington, DC 20005-3948

6 Telephone: (202) 508-4693

7 Email: [Paul.schoenhard@ropesgray.com](mailto:Paul.schoenhard@ropesgray.com)

\_\_\_\_\_ Messenger

\_\_\_\_\_ US Mail

\_\_\_\_\_ Facsimile

  X   ECF

8 Andrea Pallios Roberts (*pro hac vice*)

9 Brian C. Cannon (*pro hac vice*)

10 Quinn Emanuel Urquhart & Sullivan, LLP

11 555 Twin Dolphin Drive, 5<sup>th</sup> Floor

12 Redwood Shores, CA 94065

13 Telephone: (650) 801-5000

14 Email: [andreaproberts@quinnemanuel.com](mailto:andreaproberts@quinnemanuel.com)

15 Email: [briancannon@quinnemanuel.com](mailto:briancannon@quinnemanuel.com)

\_\_\_\_\_ Messenger

\_\_\_\_\_ US Mail

\_\_\_\_\_ Facsimile

  X   ECF

16 Kathleen M. Sullivan (*pro hac vice*)

17 David Elihu (*pro hac vice*)

18 Quinn Emanuel Urquhart & Sullivan, LLP

19 51 Madison Ave., 22<sup>nd</sup> Floor

20 New York, NY 10010

21 Telephone: (212) 849-7000

22 Email: [kathleensullivan@quinnemanuel.com](mailto:kathleensullivan@quinnemanuel.com)

\_\_\_\_\_ Messenger

\_\_\_\_\_ US Mail

\_\_\_\_\_ Facsimile

  X   ECF

23 William Price (*pro hac vice*)

24 Quinn Emanuel Urquhart & Sullivan, LLP

25 865 S. Figuera St., 10<sup>th</sup> Floor

Los Angeles, CA 90017

Telephone: (212) 443-3000

Email: [williamprice@quinnemanuel.com](mailto:williamprice@quinnemanuel.com)

[MicrosoftvMotoBreachofRANDCase@quinnemanuel.com](mailto:MicrosoftvMotoBreachofRANDCase@quinnemanuel.com)

\_\_\_\_\_ Messenger

\_\_\_\_\_ US Mail

\_\_\_\_\_ Facsimile

  X   ECF

DATED this 16th day of August, 2013.

/s/ Florine Fujita

FLORINE FUJITA